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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,191	06/19/2001	Judd Zebersky	GLM-RS5	2821

7590

07/11/2003

LERNER AND GREENBERG, P.A.  
POST OFFICE BOX 2480  
HOLLYWOOD, FL 33022-2480

EXAMINER
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MILLER, BENA B

ART UNIT	PAPER NUMBER
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3712

DATE MAILED: 07/11/2003

8

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/884,191

Applicant(s)

ZEBERSKY, JUDD

Examiner

Bena Miller

Art Unit

3712

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 25 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 7,13-15,23-25,28,30-35,37,43,45-58,69-74,77,78,80-83 and 85-89 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7,13-15,23-25,28,30,32,33,35,37,43,45-58,69-74,77,78,80-83 and 85-89 is/are allowed.
- 6) ☒ Claim(s) 31 and 34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the plate connected to the open box, as claimed in claim 30, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 31 is rejected under 35 U.S.C. 102(b) as being anticipated by Swope.

Swope teaches in figures 1-5 a modular house toy comprising a solid floor (1), a solid ceiling (2, figure 5) having a top with at least one flange projection (20), a solid back wall (9) and an open arch (8).

Claims 31 and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by Kinsey.

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Kinsey teaches in figures 1-15b a modular house toy comprising a solid floor (16 and 17), a solid ceiling (26) having a top with at least one flange projection (23 and 24), a solid back wall (18) and an open arch (70) and a roof (29 and 30).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Swope in view of Houser.

Swope teaches in the figures most of the elements of the claimed invention including a solid floor (1), a solid ceiling (2, figure 5) having a top with at least one flange projection (20), a solid back wall (9) and an open arch (8). However, Swope fails to teach a roof removably connected to the top side. Houser teaches a portable animal having a roof assembly 22 (col. 2, lines 50-55). It would have been obvious to one having ordinary skill in the art at the time the invention was made to apply a roof as taught by Houser to the modular house of Swope for the purpose of operatively associated with the member of assembly adjacent thereto to create a portable shelter (col. 2, lines 50-55).

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hackett teaches a knock-down structure. Leeming teaches an

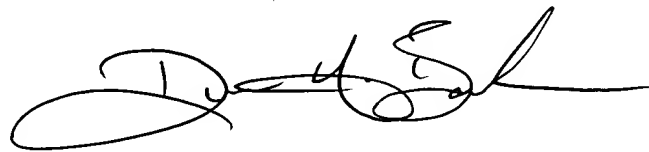
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improved dog kennel. Chang teaches a pet house. Hawley, III teaches a collapsible dog house.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bena Miller whose telephone number is 703.305.0643.

The examiner can normally be reached on Monday-Friday.

bbm  
July 3, 2003

A handwritten signature in black ink, appearing to read 'D. H. Banks', with a large, stylized initial 'D' and a long horizontal stroke extending to the right.

**DERRIS H. BANKS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700**